

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

) **COMPLAINT NO. R4-2006-0023**

In the matter of:

Mr. Ivars Valdry,) **ADMINISTRATIVE CIVIL LIABILITY**
individually and doing
business as

VALDRY'S AUTO) **For**
DISMANTLING

) **VIOLATIONS OF THE CALIFORNIA WATER CODE**
) **(NPDES PERMIT NO. CAS000001)**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Ivars Valdry, individually, and doing business as Valdry's Auto Dismantling (Permittee), is alleged to have violated requirements contained in State Water Resources Control Board Order No. 97-03-DWQ NPDES Permit No. CAS000001, Cleanup and Abatement Order No. R4 - 2004-0041 and section 13304 of the California Water Code (CWC) for which the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), may impose liability under CWC section 13385.
2. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within ninety days after service of this Complaint on the Permittee, unless the Permittee waives the hearing and pays the recommended administrative civil liability amount of \$45,870.
3. The Permittee and/or Permittee's representatives will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. A notice containing the date, time and location of the Hearing will be mailed to the Permittee not less than ten days prior to the Hearing date.
4. At the hearing, the Regional Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of greater judicial civil liability in a greater amount.

5. Storm water runoff and authorized non-storm water discharges from the Permittee's facility at 14720 South Main Street in the City of Gardena are regulated under the State's General Permit for Discharges of Storm Water Associated with Industrial Activities, Excluding Construction Activities, Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit), WDID No. 4 19S 007024. The Permittee's facility discharges these waters to the Dominguez Channel, a navigable water of the United States.
6. CWC § 13376 requires any person discharging pollutants or proposing to discharge pollutants to navigable waters of the United States within the jurisdiction of the Regional Board to file a report of discharge, and prohibits the discharge of pollutants except as authorized in waste discharge requirements issued by the Regional Board. CWC § 13385(a) (1) provides that any person violating CWC § 13376 shall be civilly liable, and CWC § 13385(c) provides that the Regional Board may administratively impose civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.

BACKGROUND

7. The Permittee operates an auto dismantling facility which discharges waters containing pollutants to navigable waters of the United States and is therefore subject to the requirements of the General Permit.
8. The Permittee's Notice of Intent, the General Permit enrollment application form, filed on March 27, 1992, listed "Valdry's Auto Dismantling" as the facility's operator and "5015" as the Standard Industrial Classification (SIC) code, which is identified as Used Motor Vehicle Parts, and this activity is required to be enrolled in the General Permit.
9. Under the General Permit, the Permittee is allowed to discharge storm water runoff associated with industrial activities into the Dominguez Channel, a navigable water of the United States, but only under specified conditions.
10. On March 3, 2003, Regional Board staff, Ivar Ridgeway, conducted an inspection of the Permittee's facility to determine compliance with the General Permit. As documented in the inspection report dated March 3, 2003, the inspector observed that the Permittee was in violation of several provisions of the General Permit. The Permittee's Storm Water Pollution Prevention Plan final draft was not on site, the Permittee had not implemented appropriate Best Management Practices (BMPs) for managing piles of uncovered and not contained oily auto parts spread throughout the facility, and vehicle waste fluid containers were stored uncovered and uncontained.
11. On March 11, 2003, the Regional Board Executive Officer (Executive Officer) issued a Notice of Violation (NOV) to the Permittee for an incomplete SWPPP, failure to implement a SWPPP, BMP deficiencies and failure to develop and implement a monitoring program. In the NOV, staff advised the Permittee of the penalties for violations of the General Permit. The NOV required compliance, including revisions to the SWPPP to be submitted to the Regional Board by April 11, 2003.

12. On May 14, 2003, Regional Board staff, Ivar Ridgeway, re-inspected the Permittee's facility to determine compliance with the General Permit. As documented in the inspection report dated May 14, 2003, the inspector observed the Permittee continuing to violate Sections A.1, A.2, and A.8 of the General Permit. Mr. Ridgeway observed that the Permittee continued to store rusty and oily/greasy automotive parts directly on the ground and without cover and failed to respond to the March 11, 2003 NOV.
13. On May 23, 2003, the Executive Officer issued a second NOV to the Permittee for failure to respond to the March 11, 2003 NOV.
14. On January 6, 2004, Regional Board staff, Ivar Ridgeway, and Los Angeles County Health Hazmat staff re-inspected the Permittee's facility to determine compliance with the General Permit. Los Angeles County Health Hazmat staff issued an NOV to the Permittee requiring secondary containment of waste fluids, clean-up of spills/leaks and the use of appropriate dismantling practices within 30 days. Mr. Ridgeway stated in his inspection report that the Permittee had made minimum progress with the dismantling storage and implementing the BMPs.
15. On January 16, 2004, the County of Los Angeles issued an NOV and an Order to Comply to the Permittee covering a number of violations pertaining to Health and Safety Code, division 20 and California Code of Regulations (CCR) title 22 for Hazardous Materials and Hazardous Waste Control.
16. On January 29, 2004, the Regional Board received a response from Frog Environmental (the Permittee's consultant) stating that they were assessing Valdry's Auto Dismantling to determine the best course of action to take in addressing the issues in the NOV dated March 11, 2003. The letter acknowledged that the NOV deadline of April 11, 2003 had passed and stated that the incomplete SWPPP and BMP implementation issues would be addressed. The letter also indicated that a Monitoring Program had been established and samples had been collected.
17. On March 16, 2004, the Executive Officer issued Cleanup and Abatement Order (CAO) No. R4-2004-0041 which required the Permittee to implement certain measures to ensure that the quality of the water impacted by Valdry's Auto Dismantling in the Dominguez Channel met the requirements of the CWC and the Water Quality Control Plan for the Los Angeles Region. The CAO ordered the Permittee to revise the Monitoring Plan to include the annual sampling of four storm events, implement appropriate BMPs for the draining of vehicle fluids from dismantled parts, develop and implement a cleanup schedule and revise and implement a complete SWPPP with timelines and BMPs implementation specified in the clean-up schedule.
18. On March 22, 2004, Regional Board received a progress report from Frog Environmental in response to the Cleanup and Abatement Order. The progress report stated that the Monitoring Plan had been revised to include the annual sampling of four (4) storm events, and Best Management Practices (BMPs) for the drainage of vehicle fluid from dismantled parts had been implemented, and a second progress report would be submitted to the Regional board by April 16, 2004. The report would address the development and implementation of a Clean-up Schedule and the development of a revised and completely implemented SWPPP, which would incorporate the timeline and BMP implementation schedule specified in the clean-up schedule.

This progress report was deemed to be adequate.

19. On November 3, 2004, Regional Board staff, Ivar Ridgeway, re-inspected Valdrys Auto Dismantling for compliance with the Cleanup and Abatement Order. The inspector observed the Permittee had implemented 40 to 50 percent appropriate BMPs since the previous inspection. The inspector also observed the Permittee had placed a considerable number of engines on covered racks and some in covered containers. Waste fluids were also stored in covered containers. The Permittee was advised to submit timely reports documenting the activities and revise the SWPPP to include a BMP implementation schedule.
20. On July 5, 2005, Regional Board staff, Ms. Carolyn Hunter, inspected Valdrys Auto Dismantling for compliance with the Cleanup and Abatement Order and observed Valdrys Auto Dismantling did not meet the requirements of the CAO or the NOV issued March 11, 2003. In particular, staff observed oily auto parts, oil spills and trash throughout the facility. Section A.8.a.i of the General Permit required that the Permittee practice good housekeeping and implement effective BMPs.
21. On August 23, 2005, Regional Board staff, Ms. Carolyn Hunter, re-inspected Valdrys Auto Dismantling for compliance with the Cleanup and Abatement Order R4-2004-0041 and the NOV issued on March 11, 2003. Staff observed oily auto parts, oil spills and trash throughout the facility. Staff also observed some progress with Mr. Valdrys moving some of the auto parts from the facility and staff received five receipts dated 5/31/05, 7/20/05, 8/2/05, 8/17/05, and 8/19/2005, which appeared to confirm the Permittees waste disposal of auto parts.
22. On November 14, 2005, the Executive Officer issued another NOV to the Permittee for failure to implement effective BMPs to prevent pollutants associated with dismantling activity from contact with storm water runoff, failure to submit a cleanup schedule to implement appropriate BMPs, and failure to come into compliance with the General Permit and the CAO. In particular, ON March 3, 2003, May 14, 2003, January 6, 2004, July 5, 2005, and August 23, 2005, staff observed oily auto parts, used tires, oil spills and trash on the ground throughout the facility without secondary containment, overhead cover or BMPs not implemented. This is a violation of Section A.8.a.i. of the General Permit and the CAO.

CONCLUSION

23. The Permittees SWPPP was brought into compliance with the General Permit, but the Permittee has failed to implement BMPs to prevent pollutants associated with dismantling activity from contact with storm water runoff and failed to come into compliance with the CAO cleanup schedule for appropriate BMPs for batteries, engines and transmission parts. This is in violation of the General Permit and the CAO.

POTENTIAL CIVIL LIABILITY

24. Section 13385 of the CWC provides that any person who violates waste discharge requirements or a CAO issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a Regional Board in an amount not to exceed ten thousand dollars (\$10,000) per violation for each day the violation occurs.
25. The Permittee is alleged to have violated the waste discharge requirements of the General Permit by not implementing BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized non-storm water discharges since at least March 3, 2003, until August 23, 2005. Therefore, the maximum liability under section 13385(a) (1) of the CWC is:

POTENTIAL MAXIMUM PENALTY

PENALTY CATEGORY	CALCULATION	TOTAL
CWC § 13385 failure to comply with waste discharge requirements.	(March 3, 2003 through August 23, 2004) 535 days x \$10,000/day	\$5,350,000
Failure to comply with the CAO	\$5,000/day x 4=	\$20,000
Potential Penalty		\$5,370,000

RECOMMEND CIVIL LIABILITY

26. Pursuant to CWC section 13385 (e), the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed:
- a) Nature, circumstances, extent, and gravity of the violations: The violations included uncovered piles of oily auto parts spread throughout the facility and BMPs not implemented throughout the facility. These violations may adversely impact human health or the environment by discharging either direct or indirectly to waters of the United States. The Permittee was enrolled in the General Permit on May 27, 1992. and is expected to comply with all of its requirements, especially after the issuance of three NOVs from the Executive Officer dated 3/11/03, 5/23/06. 11/14/05 and one from the County of Los Angeles. The Executive Officer also issued a CAO dated 3/16/04 for failure to implement BMPs and submit a cleanup schedule to implement appropriate BMPs for auto parts. Therefore, a reduction in the assessment of the civil liability is not warranted.
 - b) The discharge is susceptible to cleanup or abatement: The discharge of industrial pollutants (e.g., oil & grease and metals) is not easily cleaned up once it has been released into the storm drain or navigable waters of the United States. Therefore, a reduction in the assessment of the civil liability is not warranted.

- c) The degree of toxicity: Pollutants such as metals are toxic to aquatic life if discharged to receiving waters. Therefore, a reduction in the assessment of the civil liability is not warranted.
- d) The ability of the Permittee to pay: The Permittee has failed to provide the Regional Board sufficient information to determine the Permittee's ability to pay.
- e) The effect on Permittee ability to continue business: The Permittee has not provided any information to indicate the payment of the civil liability will jeopardize the Permittee's ability to continue business.
- f) Any voluntary cleanup efforts undertaken: The Permittee took some appropriate action to come into compliance by implementing appropriate BMPs for a portion of his inventory. The Permittee stored dismantled engines and other auto parts in a covered bin, implemented BMPs for the storage of vehicle waste fluids by placing them in a covered and contained area, and disposed of some auto parts by hauling them off to a waste management transfer station. Therefore a reduction in the assessment of the civil liability is warranted.
- g) Prior history of violations: The Permittee repeatedly violated the General Permit (Part A, discharge prohibitions). As described in findings, the Permittee had not implemented appropriate BMPs for managing piles of uncovered oily auto parts spread throughout the facility, failed to implement the SWPPP, failure to develop and implement a monitoring program. The NOVs issued on 3/11/03, 5/23/03, 11/14/05, and the CAO issued 3/16/04 described violations of the General Permit including failure to implement appropriate BMPs. The violations continued after the NOVs were issued and continued after the Executive Officer issued the CAO. Therefore a reduction in the assessment of the civil liability is not warranted.
- h) Degree of culpability: The Permittee violated the terms of the General Permit by failing to implement appropriate BMPs. In addition, the Permittee should have been aware of the potential threat to water quality and the need for effective BMPs as documented in the General Permit. Therefore a reduction in the assessment of the civil liability is not warranted:
- i) Economic benefit or savings: The Permittee realized cost savings by not taking appropriate measures to reduce or prevent pollutants in industrial storm water discharges and authorized non-storm water discharges. Therefore a reduction in the assessment of the civil liability is not warranted.
- j) Other matters as justice may require: An additional matter to consider is the time spent by the staff of the Regional Board in evaluating the incidents of violation and preparing this Order and related documents. The Regional Board charges a rate of \$70 per hour for staff cost recovery. With total staff time of 41 hours, staff costs incurred by the Regional Board are estimated to total \$2,870.

RECOMMENDED CIVIL LIABILITY

27. After consideration of these factors, the Executive Officer proposes civil liability be imposed on the Permittee in the amount of \$45,870 which consists of the following:

- An assessment of \$40,000, for discharging 4 days without implementing BMPs, pursuant to CWC section 13385 (e).
- An assessment of \$2,870 for staff cost recovery (41 hours at \$70 per hour).
- An assessment of \$3,000 for avoided cost (\$1,000 x 3 years)

PENALTY CATEGORY	CALCULATION	TOTAL
Section (A.8a.i.) lack of good housekeeping and effective BMP's	CWC§ 13385 (e) for 4 days; March 3, 2003, May 4, 2003, July 5, 2005 and August 23, 2005: $\$10,000 \times 4 =$	\$40,000
Avoided Cost	\$1,000 per year for 3 years for an incomplete SWPPP and non-compliance with the SWPPP. $\$1,000 \times 3 =$	\$3,000
Recovery of Staff Costs	$\$70/\text{hour} \times 41 \text{ hours}$	\$2,870
Total Recommended Civil Liability		\$45,870

28. This matter will be heard before the Regional Board or Hearing Panel pursuant to Water Code section 13323 unless the Permittee waives the hearing and pays the penalty of \$45,870 in full by July 7, 2006. The Permittee will be notified of the date, time, and location of the Hearing.
29. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the General Permit, including but not limited to implementation of a SWPPP.
30. The Permittee may waive the right to a hearing. Should the Permittee decide to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver form to the Regional Board (320 West 4th Street, Suite 200, Los Angeles, CA 90013) by the close of business on July 7, 2006. The permittee must also submit a check in the amount of \$45,870 (payable to the State Water Resources Control Board Cleanup and Abatement Account with the signed waiver.
31. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

WAIVER OF THE RIGHT TO A HEARING

By signing below and returning this Waiver, I hereby waive the right of Ivars Valdry, individually and doing business as Valdry's Auto Dismantling to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability Complaint No. R4-2006-0023 (Complaint) issued by the Regional Board Executive Officer. Ivars Valdry understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes.

Enclosed herewith in full payment of the civil liability is a \$45,870 check payable to "State Water Resources Control Board Cleanup and Abatement Account."

Ivars Valdry understands that this Waiver gives up the rights to argue against the allegations made by the Executive Officer in this Complaint and against imposition of, and the amount of, civil liability imposed. Ivars Valdry also understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment in full will be due thirty days after the date of the adoption of the Order.

I hereby affirm that I am duly authorized to act on behalf of and to bind Ivars Valdry in the making and giving of this Waiver.

Ivars Valdry, individually and doing business as
Valdry's Auto Dismantling

Date: _____

By: _____
(Signed name)

(Printed or typed name)

Position: _____